

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3872

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

**STIPULATION
&
ORDER**

RESPONDENTS:

WILLIAM J. MOORE
License No. 24061
and
FREEDOM INSURANCE AGENCY, INC.
License No. 6162

2441 N. Main St, Suite 4
Sunset, UT 84015

Docket No. 2007-122-LC

Enf. Case No. 2031

STIPULATION

1. Respondent, William J. Moore ("Moore"), is a licensed resident insurance agent in the State of Utah, holding License No. 24061. Respondent, Freedom Insurance Agency, Inc., is a license resident insurance agency in the State of Utah, holding License No. 6162, and is owned by Respondent Moore.

2. Respondents stipulate with the Complainant, Utah Insurance Department, as follows:

a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;

- b. Respondents admit the Findings of Fact and Conclusions made therefrom;
- c. Respondents stipulate to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondents and Complainant have negotiated the terms of the Order entered herein and Respondents agree to its entry and further agree to be bound by all its terms.
3. Respondents are aware of their right to a hearing at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents have irrevocably waived their right to such hearing and to any appeal related thereto.
4. Respondents admit the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.
5. Respondents are acting herein free from any duress or coercion of any kind or nature, having been advised fully as to their rights set forth herein.
6. Respondents acknowledge that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 13th day of May, 2008.

APPROVED AS TO FORM:

Joseph P. Barrett
JOSEPH P. BARRETT
Attorney for Respondents

William J. Moore
WILLIAM J. MOORE

William J. Moore, PRES
FREEDOM INSURANCE AGENCY, INC.
William J. Moore, President

M. Gale Lemmon
UTAH INSURANCE DEPARTMENT
M. Gale Lemmon
Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. Complainant commenced a formal adjudicative proceeding by filing a Complaint against the Respondents on October 24, 2007. The parties have engaged in settlement negotiations and have entered into the Stipulation, above, to resolve this matter.

2. Sometime prior to August 9, 2002, Charles B. Maughan, an agent for Respondent Freedom Insurance took an application for a Foremost Insurance Company homeowners' insurance policy for insureds residing in Clearfield, Utah, to be effective as of August 9, 2002. The premium in the amount of \$561.00 for this policy was paid to Respondent Freedom Insurance from a real estate closing by a check from Backman Stewart Title Services, Ltd. on August 21, 2002.

3. Respondents failed to forward the premium to the insurer and on or about September 15, 2002, Foremost Insurance Company sent a Cancellation Notice to the insureds for failure to pay premiums.

4. After the issuance of the Cancellation Notice the premium was again not forwarded to the insurer by the Respondents and the policy was cancelled.

5. The insureds were not aware of the cancellation of their homeowners' insurance policy and neither was the lender, named as an additional insured. The lender continued to collect and escrow funds for the insurance premium from the insureds and to forward payments to Respondent Freedom Insurance, one payment by check in the amount of \$561.00 dated August 3, 2003, and a second check in the amount of \$561.00 dated August 3, 2004. Those checks were receipted by Respondent and deposited into its trust account.

6. Respondents also failed to forward the payments received in 2003 and 2004 to the insurer.

7. During this period of time, the insureds contacted Respondent Moore requesting a copy of their homeowners' insurance policy, but no copy of any policy was ever sent to the insureds despite their requests.

8. On or about May 11, 2005, the insureds suffered a loss that caused damage to neighboring properties and contacted Respondent Moore who assured the insureds that they had a policy of insurance covering their home when such was not the case. Only after a number of attempts to contact Respondent Moore about their insurance did Respondent Moore inform the insureds that there was no policy in existence.

9. On or about June 18, 2007, Respondent Moore entered a guilty plea in Second District Court, Farmington, Davis County, State of Utah, to a charge of Attempted False/Fraudulent Insurance Act, a Class A Misdemeanor, in connection with the allegations cited above.

10. Respondents worked with the insurer to reinstate the insurance policy and forwarded the funds held to the insurer. Respondents also paid certain monies to the insured to make the insured whole. Respondents have also implemented recommendations from a Utah Insurance Department Limited Scope Examination to assure that funds held in trust would be properly handled and accounted for.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. In failing to forward funds to an insurer for three consecutive years, causing the

cancellation of an insureds' policy, Respondents violated Utah Code Annotated § 31A-23a-411.1.

2. In assuring the insureds that they had an insurance policy in place when such was not the case, Respondent Moore violated Utah Code Annotated § 31A-23a-402(1)(a)(i).

3. In being convicted of a crime involving dishonesty or breach of trust, Respondent demonstrated that he does not meet the character requirements to hold an insurance agent's license pursuant to Utah Code Annotated § 31A-23a-107(2).

4. Pursuant to Utah Code Annotated § 31A-23a-111(5)(c), a license held by an agency, both the agency and any natural person named on the license are considered to be holders of the license.

5. The licenses of the Respondents may be suspended pursuant to Utah Code Annotated § 31A-23a-111(5)(b)(i), is unqualified for a license; -111(5)(b)(ii)(A), has violated an insurance statute; -111(5)(b)(xii), has inappropriately withheld, misappropriated or converted any monies received in the course of doing business; -111(5)(b)(xv), has admitted or been found to have committed any insurance fraud; -111(5)(b)(xvi), in the conduct of business has demonstrated incompetence, untrustworthiness or financial irresponsibility; and -111(5)(b)(xxiv), has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public. Pursuant to Utah Code Annotated § 31A-23a-112, the commissioner may place a license on probation for a period of up to 24 months for any circumstances that would justify a suspension.

6. Pursuant to Utah Code Annotated § 31A-2-308(1)(b), the commissioner may assess the Respondents an administrative forfeiture of up to \$2,500.00 for an individual licensee and of up to \$5,000.00 for an agency, for each violation of the Utah Insurance Code or Rule.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

ORDER

IT IS HEREBY ORDERED:

1. Respondent William J. Moore is assessed an administrative forfeiture in the amount of \$5,000.00, to be paid within 30 days of the date of this Order.
2. Respondent Freedom Insurance Agency is assessed an administrative forfeiture in the amount of \$5,000.00, to be paid within 12 months of the date of this Order.
3. Respondent William J. Moore's and Respondent Freedom Insurance Agency's insurance licenses are placed on probation for a period of 24 months beginning with the date of this Order. The terms of probation are as follows:
 - a. Each Respondent shall pay the administrative forfeiture assessed herein in a timely manner;
 - b. The Respondents shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner;
 - c. Respondents shall implement and continue to execute the recommendations in the Utah Insurance Department Limited Scope Examination of the Respondents dated March 25, 2008; and
 - d. Respondents shall submit to audits of the trust account conducted by the Market Conduct Division of the Utah Insurance Department to assure implementation of the recommendations in the Limited Scope Examination, the proper handling of funds held in trust, and that the Respondents can identify the owner of all funds held in trust. Said audits may be conducted at least semi-annually during the period of probation or as often as the department may determine is necessary.

NOTIFICATION

Respondents are hereby notified that failure to abide by the terms of this Order may subject you to further penalties, including additional forfeitures of up to \$5,000.00 per violation for the agency and of up to \$2,500.00 per violation for the individual licensee, and the suspension or revocation of your licenses, and the filing of an action to enforce this Order in the District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

DATED this 13th day of May, 2008.

D. KENT MICHIE
INSURANCE COMMISSIONER


MARK E. KLEINFELD, Esq.

Administrative Law Judge
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, Utah 84114
Telephone (801) 538-3800

CERTIFICATE OF MAILING

I do hereby certify that on this date I mailed, by regular mail, postage prepaid, a true and correct copy of the attached:

STIPULATION
&
ORDER


To the following:

William J Moore
And
Freedom Insurance Agency, Inc
2441 N Main St Suite 4
Sunset, UT 84015

And

Joseph P Barrett
Snow, Christensen & Martineau
10 Exchange Place
SLC, UT 84145

DATED this 14th day of May, 2008.


Angie Thomas Court Clerk
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901

UTAH
Invoice - Original

Page 1

Printed Date: May 14, 2008

Invoice Date: May 14, 2008
Balance Due: \$5,000.00
Due Date: June 06, 2008
Invoice ID: 379117
Payor ID: 8875

MOORE WILLIAM J
2441 N MAIN ST 4
SUNSET UT 84015

Item Description	Amount
5/14/2008 Monetary Penalty Individual	\$5,000.00
E Case 2031 Docket 2007-122 LC	
Original Amount Due	<hr/> \$5,000.00

UTAH
Invoice - Original

Invoice Date: May 14, 2008
Balance Due: \$5,000.00
Due Date: June 06, 2008
Invoice ID: 379117
Payor ID: 8875
Payor Name: MOORE, WILLIAM J

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114-6901

**UTAH
Invoice**

Page 1

Printed Date: May 14, 2008

Invoice Date: May 14, 2008
Balance Due: \$5,000.00
Due Date: June 18, 2009
Invoice ID: 379118

FREEDOM INSURANCE AGENCY INC
2441 N MAIN 4
SUNSET UT 84015

Item Description

Amount

Monetary Penalty Agency

\$5,000.00

ECASE 2031

Original Amount Due \$5,000.00

**UTAH
Invoice**

Printed Date: May 14, 2008

Invoice Date: May 14, 2008
Balance Due: \$5,000.00
Due Date: June 18, 2009
Invoice ID: 379118

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114-6901

Detach and Return with Payment